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In re Application of
LECOMPTE, Malcolm, et al. : DECISION ON PETITION
Application No.: 10/019,074 :
PCT No.: PCT/US00/16295 :
Int. Filing Date: 26 June 2000 :
Priority Date: 25 June 1999 :
Attorney Docket No.: 216917US8PCT :
For: DIRECT BROADCASTING IMAGING :
SATELLITE SYSTEM ... AND RELATED :
SERVICES :
:

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181 For Corrected Notice Of Acceptance" filed 18 June 2002. No petition fee is required.

BACKGROUND

On 26 June 2000, applicants filed international application PCT/US00/16295 which claimed a priority date of 25 June 1999 and which designated the United States.

On 25 January 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 26 December 2001 (25 December 2001 was a holiday).

On 26 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 04 March 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and additional fees were required.

On 06 May 2002, applicant filed a "Response to Notice Of Missing Requirements" that included the required fees and an executed declaration. The "Response TO Notice Of Missing Requirements" in the application file bears a receipt stamp dated 06 May 2002; however, the declaration in the application file bears a receipt stamp dated 06 March 2002.

On 03 June 2002, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating 06 March 2002 as the 35 U.S.C. 371 date. This date was apparently derived from the date stamp on the declaration in the application file.

On 18 June 2002, applicants filed the "Petition Under 37 CFR 1.181 For Corrected Notice Of Acceptance" considered herein. In the petition, applicants assert that the response to the Notification Of Missing Requirements submitted to complete the 35 U.S.C. 371 requirements was filed on 06 May 2002 and that this date, rather than 06 March 2002, is the proper 35 U.S.C. 371 date for this application.

DISCUSSION

Applicants have attached to the present petition a copy of a return postcard that clearly identifies the present application, itemizes, among other materials, the "Response To notice Of Missing Requirements," the 3 page declaration, and the accompanying \$1,326 fee payment. This return postcard bears a USPTO receipt stamp dated 06 May 2002.

Based on applicants' statements, the stamped return postcard, the 06 May 2002 receipt stamp on the "Response To Notice Of Missing Requirements" contained in the application file, and internal USPTO records indicating receipt of the \$1,326 fee payment on 06 May 2002, it is concluded that the declaration filed to complete the 35 U.S.C. 371 requirements was filed on 06 May 2002.

The proper 35 U.S.C. 371 date for this application is therefore 06 May 2002. The Notification Of Acceptance mailed 18 June 2002 which incorrectly identified 06 March 2002 as the 35 U.S.C. 371 date, is therefore appropriately vacated.

CONCLUSION

Applicants' petition is **GRANTED**.

The Notification Of Acceptance mailed 18 June 2002, and the subsequently mailed filing receipt, are hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a corrected Notification Of Acceptance identifying 06 May 2002 as the 35 U.S.C. 371 date and the issuance of a corrected Filing Receipt identifying 06 May 2002 as the filing date.



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